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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,318	11/26/2003	Huw Edward Oliver	B-5271 621386-3	1447
22879	7590	09/28/2010	EXAMINER	
HEWLETT-PACKARD COMPANY Intellectual Property Administration 3404 E. Harmony Road Mail Stop 35 FORT COLLINS, CO 80528				VU, THANH T
ART UNIT		PAPER NUMBER		
2175				
			NOTIFICATION DATE	DELIVERY MODE
			09/28/2010	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HUW EDWARD OLIVER

Appeal 2009-005394
Application 10/724,318¹
Technology Center 2100

Before JOSEPH L. DIXON, LANCE LEONARD BARRY, and
JAMES R. HUGHES, *Administrative Patent Judges*.

HUGHES, *Administrative Patent Judge*.

DECISION ON APPEAL²

¹ Application filed November 26, 2003. The real party in interest is Hewlett-Packard Development Co., LP. (Br. 1.)

² The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

The Appellant appeals from the Examiner's rejection of claims 1-11 and 13-45 under authority of 35 U.S.C. § 134(a). Claim 12 has been canceled. The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Appellant's Invention

The invention at issue on appeal relates to a system and method for obtaining user feedback on displayed items such as web pages utilizing activatable transport-control elements associated with semantic information. (Spec. 1, ll. 4-5; 5, ll. 16-28.)³

Representative Claim

Independent claim 1 further illustrates the invention. It read as follows:

1. A method of obtaining user feedback relating to items displayable on a device, the method comprising:

displaying on the device a view of a said displayable item, a first activatable transport-control element with associated first semantic information, and a second activatable transport-control element with associated second semantic information that is different from said first semantic information; and

responding to activation of a said transport-control element both by moving the displayed item view within or between displayable items and by storing or outputting data

³ We refer to Appellant's Specification ("Spec.") and Appeal Brief ("Br.") filed March 31, 2008. We also refer to the Examiner's Answer ("Ans.") mailed June 9, 2008.

indicative of the semantic information associated with the activated element, the item-view move that is effected as a result of activation of a said transport-control element being the same whichever of said elements is activated.

Reference

The Examiner relies on the following reference as evidence of unpatentability:

Rao US 2002/0087526 A1 Jul. 4, 2002

Rejection on Appeal

The Examiner rejects claims 1-11 and 13-45 under 35 U.S.C. § 102(e) as being anticipated by Rao.

ISSUE

Based on our review of the administrative record, Appellant's contentions, and the Examiner's findings and conclusions, the pivotal issue before us is as follows:

Does the Examiner err in finding the Rao reference discloses displaying “a first activatable transport-control element” and “a second activatable transport-control element” each having different associated “semantic information,” and responding to the activation of one of the transport-control elements “both by moving the displayed item view within or between displayable items and by storing or outputting data indicative of the semantic information associated with the activated element, the item-view move that is effected as a result of activation . . . being the same whichever of said elements is activated” as recited in Appellant's claim 1?

FINDINGS OF FACT (FF)

Rao Reference

1. Rao describes a system and method for accessing information over a distributed network, such as the Internet, utilizing search queries, and gathering information on a user based on the user's queries and the user's real-time opinion of the search results. (Abst., ¶ [0026].) Rao describes a typical user interface screen that displays user selectable buttons, including "forward" (">") and "backward" ("<") buttons. (¶¶ [0033], [0047]; Fig. 3.) When the user enters a query, Rao's system returns search results including a detailed search result and a list of additional summarized search results with corresponding rating fields associated with the summarized results on the list. The user selects the corresponding rating field to access the page (summarized search result) the user wants to view. (¶¶ [0034]-[0038]; Figs. 4, 5.) In another embodiment, Rao describes providing a user with a rating box when the user seeks access a different web page (leave the web page the user is currently viewing). When the user "selects the 'forward' or 'backward' button on their web browser, a rating box appears that asks them to rate the page they are currently viewing. Upon entry of their rating . . . the user is immediately directed to the 'forward' or 'backward' page that they have requested." (¶ [0047].)

ANALYSIS

Appellant elects to argue the anticipation rejection of claims 1-10 and 13-45 as a group with independent claim 1 as representative of the group. Appellant does not separately argue independent claims 13, 25, 32, 40, or 41, nor any of the dependent claims – dependent claims 2-10 (dependent on

claim 1), 14-24 (dependent on claim 13), 26-31 (dependent on claim 25), 33-39 (dependent on claim 32), and 42-45 (dependent on claim 41).⁴ (Br. 5, 7.) Appellant does separately argue independent claim 11. (Br. 7.) We, therefore, select independent claims 1 and 11 as representative of Appellant's groupings and arguments, and we will address Appellant's arguments with respect thereto. 37 C.F.R. § 41.37 (c)(1)(vii). *See In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987).

Appellant has the opportunity on appeal to the Board of Patent Appeals and Interferences (BPAI) to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) (citing *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)). The Examiner sets forth a detailed explanation of a reasoned conclusion of anticipation in the Examiner's Answer with respect to representative claim 1 (Ans. 3-4, 11-13) and claim 11 (Ans. 6-7). Therefore, we look to the Appellant's Brief to show error in the proffered reasoned conclusions. *See Kahn*, 441 F.3d at 985-86.

*Arguments Concerning the Examiner's Rejection
under 35 U.S.C. § 102(e)*

The Examiner rejects representative claim 1 for being anticipated by the Rao reference. (Ans. 3-4, 11-13.) Appellant contends, *inter alia*, that Rao does not disclose responding to the activation of one of the recited transport-control elements by moving the displayed item view and by storing

⁴ Appellant includes claims 41-45 in the argument heading, but does not mention these claims in the body of the argument. The Examiner does not mention the omission of claims 41-45, and we find this to be a harmless typographical error. We will treat claims 41-45 as being grouped with representative claim 1.

or outputting data indicative of the semantic information associated with the activated element, and that the item-view move is the same whichever of the elements is activated. (Br. 5-7.) The Examiner finds that Rao discloses the disputed features. (Ans. 3-4, 11-13.) Specifically, the Examiner finds that:

responding to activation of a said transport-control element both by moving the displayed item view within or between displayable items (figs. 4; [0037] and [0047]; *a user can move between web pages using “backward” and “forward” button*) and by storing or outputting data indicative of the semantic information associated with the activated element ([0047]; [0073]; *outputting of a rating box and storing of rating information*), the item-view move that is effected as a result of activation of a said transport-control element being the same whichever of said elements is activated ([0047], *the examiner considers “the item-view move that is effected as a result of activation of a said transport-control element being the same whichever of said elements is activated” to be in moving between web pages using “forward” or “backward” button, the rating box is outputted in both cases*).

(Ans. 4.)

Based on the record before us, we find error in the Examiner's anticipation rejection of representative claim 1. We agree with Appellant that the Rao reference does not disclose the disputed features – (1) moving the displayed item view and storing or outputting data indicative of the semantic information associated with an activated element in response to the activation of one of the transport-control elements, and (2) that the item-view move is the same whichever of the elements is activated – for essentially the reasons espoused by Appellant.

As detailed in the Findings of Fact section *supra*, Rao describes a user interface screen that displays user selectable “forward” (“>”) and “backward” (“<”) buttons (i.e., transport-control elements). Rao displays

search results including a list of summarized search results with corresponding rating fields associated with the summarized results, and the user may select a search result to access by selecting the corresponding rating field. Alternately, Rao displays a rating box when the user attempts to access a different web page, for example, by selecting the “forward” or “backward” button of the web browser. (FF 1.)

Rao, therefore, discloses user selectable transport-control elements. Rao also discloses moving the displayed item view and storing or outputting data indicative of the semantic information associated with an activated element, in that the user may selectively move to a different web page utilizing the transport-control elements (e.g., backward button) and Rao’s system outputs and/or stores “semantic” information associated with the button (e.g., the browser sends a message to move to a previously viewed page when the user selects the backward button). We, however, do not find Rao describes that the item-view move is the same whichever of the elements is activated. Rao will move to a different web page depending on the selected button (forward or backward), or selected search result. It is irrelevant that Rao displays the same rating box no matter which button a user selects, the movement of the web browser will be to a different page depending on the button activated. Moreover, as explained by the Examiner (Ans. 4, 12) the rating box output by Rao’s system is identical no matter the selection, and therefore cannot be indicative of the button selection. Consequently, we agree with Appellant that Rao does not disclose responding to the activation of the transport-control elements as recited in Appellant’s claim 1.

We, therefore, are constrained by the record before us to find that Rao does not disclose at least the disputed feature responding to the activation of one of the transport-control elements “both by moving the displayed item view within or between displayable items and by storing or outputting data indicative of the semantic information associated with the activated element, the item-view move that is effected as a result of activation . . . being the same whichever of said elements is activated.” The Examiner has failed to set forth a *prima facie* anticipation rejection. It follows that Appellant has persuaded us to find error in the Examiner’s anticipation rejection of Appellant’s representative independent claim 1.

Appellant’s independent claim 11 includes a limitation similar in scope to the disputed limitations of claim 1 – “displaying a set of transport-control elements for transporting in a same direction between display views . . . and for each said transport-control element, presenting an associated information describing a type of experience which said user has encountered that is different from each other said transport-control element.” (*See* Br. A-2, Claim App’x., claim 11.) It follows, for the reasons discussed *supra*, that the Rao reference also does not anticipate Appellant’s independent claim 11. Appellant’s remaining independent claims include limitations commensurate with those in representative claim 1 (*supra*). Appellant’s dependent claims 2-10 (dependent on claim 1), 14-24 (dependent on claim 13), 26-31 (dependent on claim 25), 33-39 (dependent on claim 32), and 42-45 (dependent on claim 41) depend on their respective base independent claims. Therefore, based on the record before us, we find that the Examiner erred in finding the Rao reference discloses each limitation recited in Appellant’s

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claims 1-11 and 13-45. Accordingly, we reverse the Examiner's anticipation rejection of these claims.

CONCLUSIONS OF LAW

Appellant has shown that the Examiner erred in rejecting claims 1-11 and 13-45 under 35 U.S.C. § 102(e).

DECISION

We reverse the Examiner's rejection of claims 1-11 and 13-45 under 35 U.S.C. § 102(e).

REVERSED

msc

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